

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-253V

Filed: July 15, 2016

Unpublished

STEPHANIE ROSENTHAL,

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v.

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Petitioner,

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Ruling on Entitlement; Concession;

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Influenza ("Flu") Vaccination;

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Shoulder Injury Related to Vaccine

SECRETARY OF HEALTH

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Administration ("SIRVA");

AND HUMAN SERVICES,

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Special Processing Unit ("SPU")

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Respondent.

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Paul Brazil, Muller Brazil, LLP, Dresher, PA, for petitioner.

Michael Milmo, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On February 23, 2016, Stephanie Rosenthal ("petitioner") filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the "Vaccine Act" or "Program"). Petitioner alleges that she suffered left shoulder injuries caused in fact by the influenza vaccination she received on October 21, 2014. Petition at 1, ¶¶ 2, 8. Petitioner further alleges that she suffered the residual effects of her injuries for more than six months, and that neither she nor any other party has filed an action or received compensation for her injuries alleged as vaccine caused. *Id.* at ¶¶ 9-11. The case was assigned to the Special Processing Unit of the Office of Special Masters.

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2012)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

On July 15, 2016, respondent filed her Rule 4(c) report in which she concedes that petitioner is entitled to compensation in this case. Respondent's Rule 4(c) Report at 1. Specifically, respondent "has concluded that a preponderance of the evidence establishes that petitioner's injury is consistent with a shoulder injury related to vaccine administration ("SIRVA"), and that petitioner's injury is not due to factors unrelated to her October 21, 2014, flu vaccination." *Id.* at 2. Respondent further indicates that petitioner has met the jurisdictional and statutory requirements for compensation under the Vaccine Act. *Id.* at 3.

In view of respondent's concession and the evidence before me, I find that petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Chief Special Master